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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,876	12/10/2003	Juha Heikki Antero Rapeli	PHF 99,578A	6828
24737	7590	06/27/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			KUMAR, PANKAJ	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 06/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/732,876

Applicant(s)

RAPELI, JUHA HEIKKI ANTERO

Examiner

Pankaj Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Priority

2. It would be helpful if applicant can provide a copy of the foreign priority paper in this application. It would also be helpful if applicant can provide a copy of the PTOL-326 from the parent application which would indicate that the certified copy of the priority document has been received.

Drawings

3. Please provide new corrected drawings in compliance with 37 CFR 1.121(d) in this application because the replacement drawing sheet has handwriting. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings.

Double Patenting

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and

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useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

5. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claims 1-10 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 of prior U.S. Patent No. 6,731,242. This is a double patenting rejection.

7. Claim 11 is objected to under 37 CFR 1.75 as being a substantial duplicate of a portion of claim 1 which claim 11 depends from. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

8. Accordingly, claim 11 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 of prior U.S. Patent No. 6,731,242 since claim 11 includes all of the limitations of claim 1.

Claim Objections

9. Claim 11, 14 are objected to because of the following informalities: Claim 14 is objected to since it is not clear how claim 14 further limits claim 12. Similarly, it is not clear how claim 11 further limits its independent claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCrady USPN 6,453,168 in view of Ames USPN 5,233,626.

12. As per claim 12, McCrady teaches forming a location signal that includes N identical messages (McCrady col. 8 lines 4-7: multiple RTS-T messages); transmitting said location signal from said first station to said second station, said location signal being propagated to said second station along a plurality of paths including a shortest path (McCrady fig. 1; col. 8 lines 4-7: master to reference), wherein said location signal includes N identical messages (McCrady col. 8 lines 4-7: multiple RTS-T messages); combining said N identical messages by said second station to obtain a signal of higher energy than that of the received identical messages (not in McCrady but would be obvious as explained below), of which the shortest path is detected (McCrady col. 15 lines 40-42); and calculating said position using measurements of the location signal based on said shortest path (McCrady col. 8 lines 15-18; col. 15 lines 40-47).

13. McCrady does not teach combining said N identical messages by said second station to obtain a signal of higher energy than that of the received identical messages. Ames teaches combining said N identical messages by said second station to obtain a signal of higher energy

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than that of the received identical messages (Ames abstract: “combines the multiple received and equalized signal copies to produce a composite signal”). Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention was made, to arrive at the combining said N identical messages by said second station to obtain a signal of higher energy than that of the received identical messages as recited by the instant claims, because the combined teaching of McCrady with Ames suggest combining said N identical messages by said second station to obtain a signal of higher energy than that of the received identical messages as recited by the instant claims. Furthermore, one of ordinary skill in the art, would have been motivated to combine the teachings of McCrady with Ames because McCrady suggests multiple signals (something broad) in general and Ames suggests the beneficial use of combining multiple signals to reduce fade (Ames: abstract) in the analogous art of communications.

14. As per claim, 13, McCrady in view of Ames teaches the method of claim 12. McCrady in view of Ames does not teach wherein N is greater than or equal to 4. Such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Also, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Also, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

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15. As per claim 14, McCrady in view of Ames teaches the method of claim 12, further comprising: making measurements of said location signal; and calculating said position from said measurements (McCrady col. 8 lines 15-18; col. 15 lines 40-47).

16. As per claim 15, McCrady teaches a first station configured to transmit a location signal; and a second station configured to receive said location signal propagated via a plurality of paths including a shortest path (McCrady fig. 1; col. 8 lines 4-7: master to reference), to make measurements of said location signal, and to calculate a position of said first station from said measurements (McCrady col. 8 lines 15-18; col. 15 lines 40-47); wherein said location signal includes a plurality of identical messages (McCrady col. 8 lines 4-7: multiple RTS-T messages), combined by said second radio stations in order to obtain a signal of higher energy than that of the received identical messages (not in McCrady but would be obvious as explained below), of which the shortest path is detected (McCrady col. 15 lines 40-42); said measurements of said location signal being based on said shortest path (McCrady col. 8 lines 15 18; col. 15 lines 40-47).

17. McCrady does not teach combined by said second radio stations in order to obtain a signal of higher energy than that of the received identical messages. Ames teaches combined by said second radio stations in order to obtain a signal of higher energy than that of the received identical messages (Ames abstract: “combines the multiple received and equalized signal copies to produce a composite signal”). Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention was made, to arrive at the combined by said second radio stations in order to obtain a signal of higher energy than that of the received identical messages as recited by the instant claims, because the combined teaching of McCrady with Ames suggest combined

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by said second radio stations in order to obtain a signal of higher energy than that of the received identical messages as recited by the instant claims. Furthermore, one of ordinary skill in the art, would have been motivated to combine the teachings of McCrady with Ames because McCrady suggests multiple signals (something broad) in general and Ames suggests the beneficial use of combining multiple signals to reduce fade (Ames: abstract) in the analogous art of communications.

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Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (571) 272-3011. The examiner can normally be reached on Mon, Tues, Thurs and Fri after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pankaj Kumar
Patent Examiner
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PK